

The Madison County Board of Zoning Appeals met on the above date at 9:00 A.M. with, Mary Jane Baker, Chairman, presiding.

Members Present: Mary Jane Baker, Rick Durham, Albert Stewart, Bill Hobbs, and John Simmermon.

Members Absent: None

Also Present: Bill Maxwell, Interim Director, Judy King, Plan Reviewer, Gerald Shine, Jr., Attorney, and Elizabeth Bruns, Office Coordinator.

CURRENT BUSINESS

1. Roll call taken, all members present.
2. Member Hobbs made a motion, seconded by Member Durham to appoint Elizabeth Bruns as Secretary to the BZA Board. Vote was unanimous in favor of the motion.
3. The minutes of the preceding meeting were distributed to each member prior to the meeting. Member Hobbs made a motion, seconded by Member Durham to approve the minutes. The vote was unanimous in favor of the motion.

CONTINUED PETITIONS

1. Petition: 2010-SU-004 Special Use Zoning: R-2
Address: 3770 Chisholm Drive, Anderson
Location: N side of 100 North approximately ¼ mile W of 300 East
Petitioner: Greg Mason
Request: Special Use to provide for an addition to an existing Single-family dwelling resulting in a two-family dwelling (duplex not permitted in R2)

Mr. Maxwell informed the Board that the Special Use Petition was requested to provide for the construction of a 1,375 square foot addition to a single-family dwelling, resulting in a two-family dwelling. Public notice sent out July 16, 2010 and continued because of advertisement in the paper was too late for the meeting.

Mr. Shine stated that after last months meeting he and Mr. Maxwell met with Mr. Mason and discussed this issue in detail. We have not received a formal withdraw from him, but Mr. Mason implied that he would probably not proceed. As he has not appeared this morning, I would request that we send him a letter and advise him that if he is not here at the next meeting this Petition will be dismissed.

There were no remonstrators present.

Member Hobbs made a motion, seconded by Member Durham stating that a letter should be mailed to Mr. Mason informing him that if he does not attend the next Board of Zoning Appeals meeting his petition would be dissolved.

The vote was unanimous in favor of the motion.

NEW BUSINESS

- 1. Petition: 2010-SU-005 Special Use Zoning: CR**
Address: 8577 Old Fort Rd, Fortville, IN
Location: South side of Old Fort Rd approximately 1/8 mile East of State Rd 13
Petitioner: Bucklew Properties, LLC by Keith Bucklew
Request: Special Use request to erect and operate a 2,304 square foot greenhouse.

Mr. Bucklew stated this particular request is for his wife to do a recreational hobby type nursery. The nature of this business deals with propagation of plants (i.e. perennials, shrubs, and small trees), then selling them to nurseries. The plants will be shipped using a UPS or FedEx method. This is a low volume operation with no employees. This greenhouse is an aluminum tube, facility with maximum height being 12 feet.

Mr. Bucklew submitted the following photos.



Mr. Bucklew stated that he would like to address the issues written in the staff report. This greenhouse has a misting system that will emit a mist of water over the plants 2-3 times during a 24-hour period. The water usage that is calculated if the greenhouse is used to its' fullest extent would be 40 gallons a day for the greenhouse.

The report addresses concerns with no room for large trucks to turn around. The remaining plants are potted into one-gallon containers. We would have landscapers and developers come in with pickup trucks and possible cargo trailer behind them. This would occur possibly 5 times a month. There are no big trucks involved here. I have purchased an old dump truck that I use to

bring in compost and soil mixture for the plant beds. I use this at an average of 2-3 times a month. We do not use any pesticides or insecticides whatsoever on the plants.

No traffic will be generated from retail sales. This will be very low volume, virtually no impact; our intent is to have this invisible to the neighbors as far as activity.

Mr. Shine, County Attorney, questioned should this be approved if the business would terminate would you stipulate with a covenant that you would remove the structure from the property.

Mr. Bucklew replied he would be willing to do that.

Patricia L. Smith 8578 West Old Fort Road

I live directly across the street from this gentlemen, I have a storyboard here with photos and a petition with 50+ signatures against this proposal. Patricia stated that the trucks turn around in her driveway and are tearing up her yard. He does not live in this home. The condition of our road is poor. I have had times I could not get into my drive waiting for them to move their trucks. He has signs in his planters with warning of gas lines and electrical lines. I feel that a privacy fence should be a requirement. The view from my front yard looking into his is terrible. (Petition and photo of damage to yard available for review in the Plan Commission Office)

Judy Moffitt - 8604 West Old Fort Road expressed concerns of property taxes being raised.

Teresa Campbell – 8850 West Old Fort Road expressed concerns regarding covenants.

Penny Bing – 8554 West Old Fort Road expressed concerns of the plants in the front yard when he has 2 ¼ acres that he could be using.

Jim Moffitt – 8604 West Old Fort Road expressed concerns of the building size being increased.

Attorney Shine indicated if this petition would be approved, any additions to this would have to come back to the Board and obtain board approval. This board can also place other conditions on the approval of this petition, i.e. number of employees, hours of operation.

Several board members inquired about making a turnaround behind the house and why is this such a large building for a hobby.

Mr. Bucklew stated that he could make a turnaround behind the home and that he could only put up a portion of the building at this time.

Member Simmermon suggested since we have heard many complaints about the front of your house. We cannot enforce it, but it would be better for us to be able to please your neighbors, if those beds in the front of your house could be moved to the back of your house, where the front of the house is more presentable to your neighbors. I think if you would try to do some things to clean the front of the house up, to please your neighbors I would think that this greenhouse proposal would go through a lot easier. It looks to me that you would have enough room to put

the planters between the garage and the greenhouse, and this could possibly please everybody. The widening of the driveway is another suggestion that would help to please everybody.

Member Hobbs stated that his concern is that it should look like a residential area. What you have is clearly not the normal. If he impacts the aquifer, there is a state statute that regulates that.

Chairman Baker asked Mr. Bucklew if he has any idea how much water you are using on the outdoor plants when you are spraying them.

Mr. Bucklew responded I don't have an exact amount; everything is set on a timer. We started watering again about a month ago.

Mr. Maxwell informed the board of the staff's reason for denial (see staff report below)

- ◇ The subject site is a 2.2-acre platted lot located in Old Fort Estates on the East side of State Road 13 and on the South side of Old Fort Road in Green Township. This request would provide for the construction of an approximately 2,304 square foot building to be located behind a single-family dwelling. The property is zoned conservation residential (CR) and is surrounded by single-family residential property. The Comprehensive Plan recommends the development of rural residences and small recreational farms for this area.
- ◇ According to the *Madison County Land Use & Development Code*, the conservation residential (CR) district is designed and intended to provide for the development of clusters of medium sized homes on large lots, resulting in medium density residential neighborhoods.
- ◇ The subject site is Tract 18 in Old Fort Estates, a subdivision of single-family dwellings. The site plan indicates that the addition would be constructed at the rear of the existing house and garage using the existing driveway. Tract 18 has a width of 143.0 feet and is 669.47 feet long. The Petitioner's primary residence is in Fishers, Indiana, and he intends to rent the house on Old Fort Rd.
- ◇ The Petitioner has indicated that the owners plan to operate the nursery year-round without employees, Monday thru Friday, 8:00 a.m. to 6:00 p.m., with occasional hours on Saturday, 8:00 a.m. to noon. Petitioners anticipate wholesale buyers will be in large quantities, mostly nurseries, landscapers and developers, and that the plants will be shipped or picked up. All pickups are to be by appointment only on pickup trucks and cargo trailers 12 to 16 feet in length.

All of the homes in Old Fort Estates are on Fall Creek Regional Waste system, but do not have public water. The Petitioner has not addressed the amount of water use expected from this development, which Staff is very concerned about. Old Fort Road is a local road, which dead ends at the last parcel with no room for turn around for big trucks. The parcel the Petitioner intends to use for this endeavor is the third parcel from the end of the road. The large trucks, which will be used for this business, must pass by all the residents in this subdivision. In addition, Staff is concerned about the additional noise of the transporting vehicles, and, what kind of damage, or break down, will be incurred on the local road with the increased traffic flow of large vehicles.

FINDINGS OF FACT

1. *Would the approval be injurious to the public health, safety, morals, and general welfare of the community?* Yes, such a large addition in this otherwise residential neighborhood would pull a large amount of water for this commercial use, which could result in well failure in the community.

2. *Will the requirements and development standards set forth in the district for such exception be met?* No. The subject site is narrow with a gravel driveway located in close proximity to the existing home. A commercial use should have a paved or hard surface driveway to accommodate large vehicles needed for this use. Also there is no parking area for deliveries or pickups
3. *Will the proposed use subvert and permanently injure other property or uses in the same district and vicinity?* Yes. The use of well water along with the size and surface of the road could be detrimental to this residential community.
4. *Will the proposed use be consistent with the character of the zoning district and the Comprehensive (Comp) Plan?* No, the Comprehensive Plan recommends single-family development for this area and does not provide for commercial activity.

Member Hobbs made a motion, to approve case #2010-SU-005 with these conditions that at the front of the house, the plantings be removed and put in a state that is similar to what any residential home would look like, not commercial plantings or anything of that nature; that the driveway be widened and a turnaround area be behind the building or behind the house for any trucks that will be coming in and out of there. They shouldn't have to access the road at all for turnaround, and that we review this in a year from the date of approval so that it may be made sure that it is actually functioning the way it has been presented to us. As far as findings of facts are concerned, I do not believe that this would be injurious to the public due to the well failure issue. The water issue is covered by a state statute that requires the person creating the problem to be liable for it. The development standards probably are not met, but they are what is allowed in that type of zoning. The only issue we are dealing with here is allowing a building to go along with it. I don't think it's going to permanently injure the neighborhood, and if it does then his Special Use will be revoked within a year.

Member Simmermon seconded the motion.

Vote was taken 2-Yes, Simmermon and Hobbs; 3-No Stewart, Durham and Baker

The motion was denied. Discussion held between Board Members on reasons for voting no on this motion.

Member Hobbs made another motion, incorporating these additional conditions into his first motion; to reduce of the size of the greenhouse down to 60' in length and then come back in a years time and if everything is going well then you could finalize the petition and also look at this time about the necessity of a privacy fence for your neighbors. I would like to incorporate both of these items into my first motion as a new motion.

Vote unanimous in favor of the motion. Special Use Petition #2010-SU-005 **approved with conditions.**

Chairman Baker told Mr. Bucklew that we would see him in a year and that he is to come to us in August and that way we can see if you have been doing what we have suggested that you do and on the size of the building no more than 60'.

Attorney Shine stated that we would schedule a review hearing of this petition at our August meeting of 2011, it will be necessary for the parties to be present at that time. There will be no legal notices required.

- 2. Petition: 2010-SU-006 Special Use Zoning: AG**
Address: 12516 North 300 West, Alexandria, IN
Location: East side of Co. Rd 300 West approximately ¼ mile North of State Road 28
Petitioner: Gary and Pam Glass
Request: Special Use to open a machine shop business in an existing barn on the same property as the primary dwelling (special use grant required to operate commercial business in an agriculture-zoned district)

Mr. Glass requested with a letter that he would like to continue this petition until the September 28, 2010 meeting. There were no remonstrators present.

Member Durham made a motion, seconded by Member Hobbs to continue Petition #2010-SU-006. Vote was unanimous in favor of the motion.

Mr. Shine informed the Board that Mr. Mason is now present and we need a motion made to now continue the case.

Member Hobbs made a motion, seconded by Member Stewart to reopen case #1020-SU-004 as the Petitioner is here. Vote was unanimous in favor of the motion.

Mr. Shine stated that Mr. Mason advised him that he had some new plans prepared removing the kitchen. By removing the kitchen, I'll leave it to Bill but I don't think that he needs to proceed, because it's a corner lot and he'll have a road cut from each side of his property if the County Engineers Office will grant him an additional driveway cut.

Mr. Maxwell and Mr. Shine met with Mr. Mason about reconfiguring the plans and make it down to a couple of room additions and then it could be done administratively with the proper site plan configurations.

Mr. Mason stated that the closest part of his proposed structure would be 36.8 feet to the edge of the road. This is not a separate area; every part of the new addition is accessible from the original home. This will never be a rental.

Mr. Shine said that if you don't get your permit from the Planning Department, you could come back to the meeting next month.

Member Hobbs made a motion, seconded by Member Durham to continue Petition #2010-SU-004. There were no remonstrators present. Vote was unanimous in favor of the motion. **Petition #2010-SU-004 Continued.**

MISCELLANEOUS

Mr. Shine informed the Board that the Landfill issue is going before the Supreme Court on September 8, 2010.

Member Stewart made a motion, seconded by Member Hobbs to adjourn.

Adjournment: 10:45:06 A.M.

Mary Jane Baker, Chairman

Elizabeth Bruns, Secretary